

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Serial No.: 09/238,678  
 Filed: January 26, 1999  
 Applicant: Steven R. Clarke  
 Title: **HOT BITUMEN COMPATIBLE EPDM ROOFING SHEET**  
 Art Unit: 1771  
 Examiner: Ms. Arti R. Sing  
 Conf. No. 6023

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 TC 1700

Mail Stop Non-Fee Amendment  
 Commissioner for Patents  
 P. O. Box 1450  
 Alexandria, VA 22313-1450

**AMENDMENT TRANSMITTAL**

1. ☒ Transmitted herewith is an Amendment in response to the office action of May 7, 2003.
2. ☐ Small Entity status of this application under 37 CFR 1.9 and 1.27 has been established by a verified statement previously submitted.
  - ☐ Enclosed is a verified statement to establish Small Entity status
  - ☒ Other than a Small Entity
3. The fee has been calculated as shown below:

	(Col. 1)	(Col. 2)	(Col. 3)	SMALL ENTITY	LG. ENTITY
	Claims After Amendment:	Already Paid:	No. Extra:	Addit. Rate Fee:	Addit. Rate Fee:
TOTAL	11 MINUS	11 =	0 X	\$11 = \$_____	X \$22 = \$_____
INDEP	2 MINUS	2 =	0 X	\$40 = \$_____	X \$80 = \$_____
First Presentation of Multiple Dep. Claim:				+ \$130 = \$_____	+ \$260 = \$_____
Total Fee Due:					\$ <u>N/A</u>

- ☒ No additional fee for claims is required.
- 4. ☐ Attached is a check in the sum of \$\_\_\_\_\_ for additional claims.
- ☐ Please charge my Deposit Account No. 23-3000 in the amount of \$\_\_\_\_\_.

5. The proceedings herein are for a patent application and the provisions of 37 CFR 1.136 apply. Complete (a) or (b) as applicable.

(a) ☐ Applicant petitions for an extension of time under 37 CFR 1.136 for the total number of months checked below:

	Extension (months)	Large Entity Fee	Small Entity Fee
<input type="checkbox"/>	One Month	\$110.00	\$55.00
<input type="checkbox"/>	Two Months	\$410.00	\$205.00
<input type="checkbox"/>	Three Months	\$930.00	\$465.00
<input type="checkbox"/>	Four Months	\$1,450.00	\$725.00

Extension fee due with this request \$\_\_\_\_\_.

If an additional extension of time is required, please consider this a petition therefor.

(Check and complete the next item, if applicable)

☐ An extension for \_\_\_\_\_ months has already been secured and the fee paid thereof of \$\_\_\_\_\_ is deducted from the total fee due for the total months of extension now requested. Extension fee due with this request \$\_\_\_\_\_.


**OR**

(b) ☐ Applicant believes that no extension of term is required. However, this conditional petition is being made to provide for the possibility that applicant has inadvertently overlooked the need for a petition for extension of time.

☒ **If any additional fee for claims or extension of time is required, charge Account No. 23-3000.**

Respectfully submitted,

WOOD, HERRON & EVANS, L.L.P.

By:   
\_\_\_\_\_  
Gregory J. Lunn  
Reg. No. 29,945

2700 Carew Tower  
441 Vine Street  
Cincinnati, Ohio 45202-2917  
(513) 241-2324  
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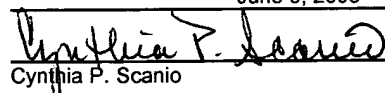
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CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to Mail Stop Non-Fee Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on

June 9, 2003

 June 9, 2003  
Cynthia P. Scanio Date

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Applicant: Steven R. Clarke  
Title: **HOT BITUMEN COMPATIBLE EPDM ROOFING SHEET**  
Art Unit: 1771  
Examiner: Ms. Arti Singh  
Atty Docket: CRS-227  
Confirmation No.: 6023

Cincinnati, OH

June 9, 2003

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Commissioner for Patents  
P. O. Box 1450  
Alexandria, VA 22313-1450

Sir:

RESPONSE TO OFFICE ACTION

In response to the Office Action mailed on May 7, 2003, applicant requests reconsideration in light of the following discussion.

## **DISCUSSION**

The claims were rejected under 38 U.S.C. §102 in light of the Harkness 4,755,409 reference. Applicant maintains that this does not anticipate any of the pending claims.

The claims of the pending application include three layers: an outermost layer which is EPDM, EPM, TPO, PVC or CSPE; a lower layer, which is a fleecy material; and an intervening layer which is a protective layer. This protective layer is a material that is resistant to bituminous adhesives. The Harkness reference fails to disclose this protective layer and, further, it fails to disclose any fleecy layer.

The Harkness material is a laminated material which incorporates an outermost layer which can be an elastomeric layer; an intermediate polyethylene layer with intervening layers of bituminous adhesive material on either side of the polyethylene layer. However, it does not have any type of protective layer. The polyethylene layer certainly would not protect any material from the bituminous material. This is a non-polar material which should allow the bituminous material to leach through. Further, there is bituminous material which is in direct contact with the elastomeric material. Thus, there is no layer that would act to protect the elastomeric layer. The Harkness reference even indicates that "the elastomeric sheet preferably has certain characteristics including properties that resist bitumen attach. (See column 2, lines 57-59.)


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Amendment dated June 9, 2003  
Reply to Office Action dated May 7, 2003

Further, the reference simply fails to disclose any fleecy layer whatsoever. The only other layers that it has are release layers which are basically silicone treated paper or similar material.

In light of this, applicant would maintain that the pending claims are allowable in light of the Harkness reference and, accordingly, would request allowance of same.

Respectfully submitted,

WOOD, HERRON & EVANS, L.L.P.

By   
\_\_\_\_\_  
Gregory J. Lunn, Reg. No. 29,945

2700 Carew Tower  
441 Vine Street  
Cincinnati, OH 45202  
(513) 241-2324 - Telephone  
(513) 421-7269 - Facsimile